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Climate change-crisis / Overtourism
Questionnaire

Introduction

In keeping with the Guiding Principle [Leitmotiv] of the Greek presidency of ACA-Europe, the first seminar, which will be held in Athens in November 2025, will focus on the role of the administrative judge when confronted with current challenges related to the climate crisis and the harmful effects of overtourism. The following questionnaire focuses on the six points outlined in the Guiding Principle. The presentation of the regulatory framework in the various countries [international law, European law and national law] and the application of this normative framework by judges in each country will enable us to address questions relating to the effectiveness and relevance of the traditional tools and methods available to judges when they are called upon to rule on disputes concerning the aforementioned challenges.

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Part A: Climate change-crisis

I. The regulatory framework

I.A. Supranational rules

I.A.1. Rules of international law

➥ What international instruments [treaties/conventions] relating to climate change are in force in your country?

Kyoto Protocol☒

Paris Accords ☒

Aarhus Convention (procedural matters) ☒

Other (please specify) ☒

The international instruments relating to climate change in Romania, other than the Paris Accords and the Aarhus Convention (referring to the procedural matters) is the **United Nations Framework Convention on Climate Change (UNFCCC)** – ratified by Romania through **Law No. 24/1994**, this foundational treaty provides the overarching legal framework for international cooperation on climate change and underpins all subsequent climate agreements, including the Kyoto Protocol and the Paris Agreement. Romania, as an EU Member State, remains bound by its obligations under the UNFCCC.

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- What is the formal validity of the aforementioned rules of international law in your country's legal system? (please describe briefly the procedure for incorporating international rules into the legal system)

International legal norms become valid and applicable in domestic law **as expressly regulated by the Constitution of Romania**.

Article 11 paragraph (2) of the Constitution provides that *"the treaties ratified by Parliament, according to the law, are part of domestic law."* This means that international treaties **do not automatically apply** within the Romanian legal system; they become applicable **only after being ratified by law by the Parliament**.

Regarding **Article 20 paragraph (2)**, it states that *"if there are inconsistencies between the covenants and treaties on human rights to which Romania is a party and domestic laws, the international regulations shall take precedence, unless the Constitution provides otherwise."* Thus, the Constitution expressly establishes the **priority of international human rights treaties** over domestic legislation, provided they do not contravene constitutional provisions.

Concerning the **procedure for incorporating international rules into the legal system**, it is worth mentioning that in Romania, the incorporation of rules of derived international law, particularly those originating from European Union law, is carried out according to the nature of the legal act adopted by the EU institutions, pursuant to Article 288 of the Treaty on the Functioning of the European Union (TFEU).

EU regulations have direct applicability and are binding in all their elements, without requiring transposition or national legislative measures. Once they enter into force at the EU level, they automatically become part of the domestic legal system and are directly applicable by Romanian courts and authorities. No national legal act may amend or condition the content of a regulation.

EU directives, by contrast, are binding only as to the result to be achieved, leaving the choice of form and methods to the Member States. In Romania, directives are transposed through laws, go-vernment ordinances, or government decisions, depending on the area regulated. Failure to transpose a directive within the prescribed time frame results in the liability of the Romanian state and may trigger infringement proceedings initiated by the European Commission**.**

EU decisions are binding only upon those to whom they are addressed and may be implemented either through administrative acts (where the impact is limited) or, in certain cases, through higher-ranking normative acts, such as a law, especially whenlaw they entail financial or budgetary obligations or require structural changes to national legislation.

Recommendations and opinions, which are not legally binding, do not require transposition, but they may influence legislative policy and public administration and are sometimes used as interpretative guidelines.

***Regarding the **Kyoto Protocol** : Although the **Kyoto Protocol** remains **formally in force** in Romania, having been ratified through **Law No. 3/2001** and **not denounced**, it **no longer produces legally relevant effects** at present. The Protocol established two commitment periods (2008–2012 and 2013–2020, the latter through the Doha Amendment), yet Romania **did not ratify the amendment** corresponding to the second period. Following the year 2020, the mechanisms under the Kyoto Protocol were **effectively replaced by the legal framework established through the Paris Agreement**. Therefore, while the Protocol is still formally valid, **Romania no longer has active obligations under it**, with its current climate commitments deriving from the **Paris Agreement** and the **European Union legislation** adopted on its basis.

I.A.2. EU rules

- Which are the main EU climate change rules that have been incorporated into your national legislation?

The main EU climate change rules that have been incorporated into Romania's national legislation are the following:

-**Directive 2003/87/EC** of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC, incorporated in the national legislation **as** Government Emergency Ordinance no. 195/2005 on environmental protection, published in the Official Gazette of Romania, Part I, no. 1196 of 30 December 2005;

-**Directive 2012/27/EU** of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC, transposed through **Law no. 121/2014** on energy efficiency, published in the Official Gazette of Romania, Part I, no. 574 of 1 August 2014;

-**Directive (EU) 2018/2001** of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (recast) which was artially transposed through Law no. 155/2020 amending and supplementing **Law no. 123/2012** on electricity and natural gas, and amending and supplementing other legislative acts, published in the Official Gazette of Romania, Part I, no. 665 of 27 July 2020;

-**Directive (EU) 2018/2002** of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency, transposed through Government Emergency Ordinance no. 130/2022 amending and supplementing **Law no. 121/2014** on energy efficiency, published in the Official Gazette of Romania, Part I, no. 953 of 29 September 2022;

-**Directive (EU) 2018/410** of the European Parliament and of the Council of 14 March 2018 amending Directive 2003/87/EC to enhance cost-effective emission reductions and low-carbon investments and Decision (EU) 2015/1814, whose relevant provisions of this directive were incorporated into national legislation through **Government Decision no. 780/2006** on the establishment of the greenhouse gas emission allowance trading scheme, published in the Official Gazette of Romania, Part I, no. 554 of 27 June 2006, and subsequently amended to reflect the updates introduced by Directive (EU) 2018/410.

- Has your country been the subject of proceedings for failure to fulfil its obligations under EU legislation in this area?

Yes, unfortunately Romania has been repeatedly targeted by the European Commission for failing to fulfill its obligations under European Union legislation on climate change, as provided for by directives and regulations adopted within the framework of EU climate and energy policies. In accordance with Article 258 first thesis of the Treaty on the Functioning of the European Union (TFEU), the Commission has initiated several infringement proceedings against Romania for delays or deficiencies in the transposition or correct application of European standards regarding renewable energy, energy efficiency, and the internal energy market—all of which are areas directly linked to the Union's climate objectives.

Among the most notable are the following:

1. As a result of the initiation of the **infringement procedure** on 26 September 2024 (INFR(2024)2194) **concerning the incomplete transposition of Directive (EU) 2018/2001** on the promotion of the use of energy from renewable sources (RED II), as amended by Directive (EU) 2023/2413 (RED III), the European Commission found that Romania had failed to properly implement several key provisions that are directly relevant to achieving the Union's climate objectives. Specifically, Romania did not comply with Article 16(1),

which requires Member States to establish clear, streamlined and transparent administrative procedures for the approval and connection of renewable energy projects. Furthermore, Romania failed to designate ,,renewables go-to areas" as provided in Article 16(8), which obliges Member States to identify specific zones where permitting processes for renewable energy installations are significantly simplified. Finally, Romania did not implement Article 16(9), which stipulates that renewable energy projects shall be presumed to be of overriding public interest, thus enabling their prioritisation in environmental assessments and permitting decisions. These deficiencies directly undermine the timely deployment of renewable energy infrastructure and, consequently, the fulfilment of climate-related obligations under EU law.

In conclusion, although the infringement procedure formally concerns breaches of obligations in the field of renewable energy, it is directly linked to climate change, as the provisions in question are essential for accelerating the energy transition, reducing greenhouse gas emissions, and achie-ving the climate targets undertaken by Romania at both European and international levels.

➥ If so, please indicate what stage has been reached in the proceedings (warning letters, Commission appeals, rulings by EU courts)

Regarding the infringement procedure on 26 September 2024 concerning the incomplete transposition of Directive (EU) 2018/2001, following the issuance by the European Commission of a letter of formal notice to Romania on 26 September 2024 for failing to fully transpose into national law the provisions concerning the simplification and acceleration of permitting procedures for renewable energy projects, as required under Directive (EU) 2018/2001, as amended by Directive (EU) 2023/2413 (RED III), the Romanian authorities were granted a period of two months to submit observations and remedy the deficiencies identified.

However, upon examining the response submitted by Romania, the Commission found that the national authorities either failed to notify the necessary transposition measures or did not provide sufficiently clear and detailed information regarding the manner in which each provision of the directive had been incorporated into domestic legislation. Consequently, on 12 February 2025, the Commission issued a reasoned opinion, reiterating Romania's obligations and granting a further two-month period for compliance through the adoption of the appropriate legislative, regulatory, or administrative measures.

At present, Romania remains in the reasoned opinion stage of the infringement procedure and has until 12 April 2025 to provide a satisfactory response and fully address the shortcomings identified. Should the reply prove inadequate, the Commission may decide to refer the case to the Court of Justice of the European Union, pursuant to Article 258 of the Treaty on the Functioning of the European Union (TFEU).

I.B. Rules of national law

I.B.1.1. Does your country have any principles or provisions at constitutional level:

for the protection of the environment in general	☒
for climate change	☐
for the protection of health	☒
for the protection of young people or other population groups	☒

1.B.1.2. If so, do these provisions:

Contain only substantive rules?	☒
Or do they also establish procedural guarantees?	☐

Do they make explicit reference to: solidarity between generations? ☐
the rights of future generations? ☐
vulnerable groups? ☒

The provisions at constitutional level for the protection of the environment in general, the protection of health and for the protection of young people or other population groups constain mostly substantive rules. The procedural guarantees essential to exercising these rights are **detailed in secondary legislation**, particularly in **Emergency Government Ordinance no. 195/2005 on Environmental Protection,** and **Law no. 95/2006 (republished) on healthcare reform.**

I.B.2. Has the national legislator adopted specific legal instruments to address climate change issues, apart from the legislation necessary to comply with secondary EU law?

yes ☐
no ☒

If so, please briefly mention this legislation, as well as the **main content** of the relevant substantive and procedural rules.

Although, the Romanian national legislator has not adopted an autonomous national climate law or specific legal instruments that address climate change independently of EU obligations, the existing legal framework is either based on EU secondary legislation or on international agreements (such as the Paris Agreement), without the adoption of a dedicated national climate change law.

I.B.3. Does your country have a specific action plan to address climate change?

yes ☒
no ☐

If so:

- What is the level of planning (national, regional, etc.)?

Yes, Romania currently has a national-level planning instrument that addresses climate change in a structured and goal-oriented manner: the National Integrated Energy and Climate Plan (NECP) 2021–2030, elaborated under Regulation (EU) 2018/1999. While this plan includes climate objectives—such as reducing greenhouse gas emissions and increasing renewable energy use—it is not a climate-specific plan, but rather a hybrid instrument addressing both energy and climate dimensions in line with EU obligations. While this plan is not exclusively focused on climate change, it constitutes the country's main operational framework for implementing climate and energy policy targets, in line with European Union legislation. *At the subnational level*, Romania does not have binding regional or local climate action plans. However, a limited number of municipalities have adopted voluntary Sustainable Energy and Climate Action Plans (SECAPs), but these are not integrated into a formal national climate governance framework and remain largely non-binding.

In conclusion, while elements of climate planning exist in Romania, particularly through the NECP—there is currently no valid, comprehensive and climate-specific national action plan in force. The level of planning remains national, with no enforceable regional or local climate planning mechanisms.

- Please specify whether this planning is limited to defining policy guidelines (for example: limits on the use of fossil fuels; favouring other forms of energy; support for 'green' investments; improvement of infrastructure, buildings and vehicles - in the public or private sectors; cost sharing for the 'green' transition; special measures for vulnerable population groups; management of climate change-related crises, etc.),
- or whether it also contains binding rules?

Taking into consideration that, as mentioned above, Romania's current climate-related planning, as reflected primarily in the National Integrated Energy and Climate Plan (NECP) 2021–2030, is largely limited to defining policy guidelines like rather than establishing binding legal rules.

I.B.4. In your legal system [in the Constitution and/or in the laws] is there an explicit obligation for the State and/or other public-sector bodies to adopt positive measures or avoid certain actions in relation to climate change?

In Romania's legal system, there is **no explicit obligation** in the **Constitution** or in national **statutory law** that requires the State or public-sector authorities to adopt positive measures or to refrain from specific actions **exclusively in relation to climate change**.

However, several legal instruments contain **general obligations related to environmental protection**, which may be **interpreted** as covering responsibilities relevant to climate change, although they do **not mention it expressly**.

At the constitutional level: – **Article 35 of the Romanian Constitution** provides that "*The State shall recognize the right of every person to a healthy and ecologically balanced environment," and that "The State shall provide the legislative framework for the exercise of this right*." However, this provision is general and **does not mention climate change explicitly**, nor does it impose specific duties on public institutions to adopt positive measures in this regard.

Concerning the **legislative level**, the **Government Emergency Ordinance (GEO) no. 195/2005 on environmental protection** imposes certain obligations on public authorities related to environmental protection and sustainable development, but again, **does not mention climate change explicitly**. For example, **Art. 3(f)** establishes the "*polluter pays*" and "*prevention*" principles, which can conceptually relate to climate policy, but are **not linked directly to climate change**.

Also, the **Government Decision No. 739/2016** on the National Strategy on Climate Change and Low-Carbon Economic Growth for the period 2016–2020 states at Anexx no.1, Chapter 5, states that „ *As a member state of the European Union, Romania has committed to reducing greenhouse gas (GHG) emissions, in accordance with its membership status and the obligations arising from EU law*.".

However, at **4.4. - The main institutions involved at the local level, second thesis, it is underlined that „***Local authorities at the county, city, or municipal level have no legal obligation to implement local climate change policies. There are only a few examples of local authorities that have voluntarily chosen to adopt such policies. Most of those that have done so are generally part of the Covenant of Mayors.***".**

- If so, what is the nature of these measures?

(a) preventive measures

(b) repressive measures

(c) restitution measures

a) The measures adopted by the state are mostly **preventive measures** identified in Law No. 292/2018 on Environmental Impact Assessment, which transposes Directive 2011/92/EU that reffers at a obligation of the authorities to carry out an Environmental Impact Assessment (EIA) prior to the approval of an infrastructure project (e.g., construction of a motorway, power plant, mining site, etc.). The Environmental Impact Assessment (EIA) shall identify, describe and assess, as appropriate and on a case-by-case basis, in accordance with the provisions of this law, the significant direct and indirect effects of a project on the following factors: the population and human health, biodiversity, with special attention to species and habitats protected under Government Emergency Ordinance no. 57/2007 on the regime of protected natural areas, conservation of natural habitats, wild flora and fauna, approved with amendments and completions by Law no. 49/2011, as subsequently amended and supplemented, land, soil, water, air, and climate, material assets, cultural heritage, and the landscape. The effects on the above-mentioned factors shall include those anticipated as a result of the project's vulnerability to the risk of major accidents and/or disasters, as well as to climate change, where relevant to the specific project.

b) The **repressive measures** : Romania does **not have an explicit legal obligation** for public-sector bodies to act specifically against climate change. Nevertheless, **repressive Government Emergency Ordinance no. 195/2005 on Environmental Protection** establishes **general obligations for public authorities and private actors** and administrative sanctions to prevent, monitor, and reduce environmental harm. Although this ordinance does not refer directly to "*climate change*," its principles and enforcement mechanisms are **broad enough to encompass climate-relevant behavior**, such as air pollution or greenhouse gas emissions**measures related to environmental protection.**

c) Regarding the **restitution measures, an example is given by articles 14-19** of **Government Emergency Ordinance no. 68/2007** regarding environmental.

Another example of a normative act that provides for measures is also **Government Emergency Ordinance No. 68/2007 on Environmental Liability** with reference to articles 14–19 şi **Anexa nr. 2** establish remedial measures applicable in the event of significant environmental damage.

- Do individuals have any rights to ensure that this obligation is met? If so, under what conditions?

- Is the legal pursuit of this right regulated?

- Do individuals have any rights to ensure that private persons comply with similar obligations?

- Are there specific regulations for the ecological damage caused by climate change?

At the national level, Government Decision no. 1010/2024 regulates the National Strategy on Climate Change Adaptation for the period 2024–2030, with a perspective toward the year 2050. This strategy includes the RO-ADAPT Platform, which implements a geospatial database specifically designed for analyzing the potential impact of climate variability, including extreme weather events, on key vulnerable sectors. It also enables the exploitation/utilization of this database through standardized internet services.

I.B.5. In your country, is the allocation of public responsibilities in the field of climate change subject to regulation?

yes ☒
no ☐

➥ If so, which are the authorities responsible for managing issues related to the climate crisis [protection against the effects of the crisis and/or disaster management]?

Special Ministry ☒
Legal entity under public law ☒
Other organisational unit☐t

According to the National Strategy on Climate Change Adaptation for the period 2024–2030, with a 2050 outlook, at table 10.1 there are listed the main institutions that have responsibilities in the implementation of the strategy like the Ministry of Environment, Waters and Forests which is the Governmental body with responsibilities in environmental and forestry policies, responsible for coordinating the climate change adaptation process at the national level; the Interministerial Committee on Climate Change (Comitetul Interministerial privind Schimbările Climatice which is an interministerial advisory body, it ensures the alignment of policies in sectors impacting climate change, as proposed by the relevant ministries, with the commitments undertaken at the national level, as well as those towards the EU, the UN, and other international organizations to which Romania is a party. It also monitors the progress made by Romanian institutions in implementing these commitments.

The Interministerial Committee on Climate Change (CISC) is chaired by the Prime Minister of Romania. CISC has three vice-presidents: the Head of the Prime Minister's Chancellery, the official in charge of the Climate and Sustainability Department within the Presidential Administration, and the Minister of Environment, Waters and Forests.

CISC is composed of representatives from Romanian institutions responsible for developing and implementing policies with an impact on climate change, at the level of ministers or designated secretaries of state, as well as heads of institutions.

➥ Is there a body responsible for: the collection and processing of scientific data?
yes ☒
no ☐

➥ conducting comparative studies and surveys?
yes ☒
no ☐

➥ monitoring the implementation of measures and the achievement of objectives?
yes ☒
no ☐

➥ evaluating research carried out on climate change?
yes ☒
no ☐

Yes, in Romania there are legally designated bodies with clear responsibilities for the collection, analysis, and reporting of scientific data on the environment and climate change.

Concerning the collection and processing of scientific data, the main institution according to Article 3 (1), letter d) of Government Decision no. 957/2005 (republished) regarding the organization and functioning of *„the National Institute of Statistics, the National Institute of Statistics has the following responsibilities:*

collecting, processing, and storing data and information for the purpose of compiling and disseminating statistical data series."

(1) The **National Institute of Statistics** is organized and operates as a specialized body of the central public administration, with legal personality, under the authority of the Government and coordinated by the Prime Minister through the Prime Minister's Chancellery. It has the role of organizing and coordinating official statistics in Romania.

With regard to conducting comparative studies and surveys and monitoring the implementation of measures and the achievement of objectives? , it should be noted that there is no single body exclusively dedicated to this activity.
Regarding the evaluation of the research carried out on climate change, the **National Meteorological Administration (ANM)** is the main body responsible for climate data in Romania. According to Law no. 216/2004 on the establishment of the **National Meteorological Administration**, at Article 3, paragraph (2), letter d[1], „*The main object of activity of the National Meteorological Administration is meteorology and climatology, necessary for the socio-economic development of Romania and the integration of this activity into the system of international conventions and relations, for which purpose: it conducts studies and research on the identification and evolution of areas vulnerable to various severe meteorological phenomena, such as drought, desertification, floods, and similar events, which are absolutely necessary for the development of the national strategy for preventing and mitigating the effects of climate change*."
The National Meteorological Administration has the status of a public enterprise and operates based on economic management and financial autonomy, under the authority of the Ministry of Environment.
It is also stated under letter a) that the ANM "conducts observations and measurements regarding the state and evolution of the weather."

- If so, please describe the composition and the operating rules of the competent bodies (participation of elected representatives, scientists, guarantees of independence)?

- What is the nature of power allocated to these bodies (purely advisory power, decision-making power)?

- Is prior consultation with a court or other independent bodies provided for when adopting a regulation concerning climate change?

In Romania, the process of drafting regulations concerning climate change takes place within a legislative framework that provides for various stages of consultation but there is no legal provision that generally mandates the mandatory consultation of a court or independent bodies before the adoption of these regulations.

However, there are some **general procedures** that involves prior consultation when adopting a regulation.

The Lwa no. 52/2003 regarding decision-making transparency in public administration represents the framework that „*establishes the minimum procedural rules applicable for ensuring decision-making transparency within central and local public administration authorities, whether elected or appointed, as well as within other public institutions that use public financial resources, in their relations with citizens and legally constituted associations thereof*".

Therefore, the authorities must submit draft normative acts to public consultation.

Also, NGOs, experts, or the general public may be consulted, but there is no obligation to consult a court or an independent body specialized in climate matters.

The Law no. 24/2000 on the rules of legislative drafting regulates requirements regarding the substantiation of draft normative acts through impact assessments, whose purpose is to estimate the economic and social costs and benefits resulting from the adoption of the draft law, as well as to highlight potential difficulties that may arise during the implementation of the proposed regulations. In the case of transposing European legislation, compliance with the EU regulatory framework and consultation requirements is mandatory.

Additionaly, **the Law no. 292/2018** regarding the impact assessment of certain public and private projects on the environment regulates the **environmental impact** assessment of public and private projects that may have significant effects on the environment.

Regarding **prior consultation with a court** when adopting a regulation concerning climate change, we must underline that the courts in Romania do not have an advisory role in the regulatory process. Romania currently does not have an independent climate council.

- Is there a provision for public participation in the development of climate action plans or legislation? If so, what form of participation (consultation, other)?

Yes, in Romania there are provisions for public participation in the drafting of action plans regarding climate change and the related legislation. This participation is regulated by several normative acts and is carried out primarily through public consultation.

Law no. 52/2003 on decision-making transparency in public administration is the main law that guarantees the right of citizens and organizations to participate in the process of drafting normative acts.

Another example of provisions for public participation refers to **Law no. 292/2018 on the assessment of the impact of certain plans and programs on the environment** states at article 15 (1) that *„In order to ensure the effective participation of the interested public in decision-making procedures, the authorities responsible for issuing development approval inform the public, from the beginning of the procedure and, at the latest, as soon as the information can be provided, through public announcements and posting on the website*".

Law no. 86/2000 for the ratification of the Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters, signed in Aarhus on June 25, 1998 through which the Convention on Access to Information, Public Participation in Decision-making, and Access to Justice in Environmental Matters, signed in Aarhus on June 25, 1998, is ratified, states at article no.4 entitled „Access to Environmental Information" that „*Each party shall ensure that public authorities, in accordance with the following provisions of this article, make environmental information available to the public in response to a request for such information, in compliance with the provisions of national legislation*.". Also, article no. 6 concerns public participation in decisions regarding specific activities. Therefore, Romania, as a signatory state of the Aarhus Convention, has the obligation to ensure both access to environmental information for the public, public participation in environmental decision-making, including in climate-related matters and also access to justice in case of non-compliance with these rights.

- Is access to relevant information guaranteed? yes ☒ no ☐

Yes, in Romania relevant information is guaranteed through Law no. 554/2001 regarding the free access to public interest information.

II. The application of the regulatory framework by the judge

II.A. Have any disputes been brought before the courts in your country that involve, directly or indirectly (as a result of the claims, allegations and arguments of the parties to the dispute), issues related to climate change?

If so:

-Please mention the main categories of cases in which issues related to climate change arise:

(a) cases related to energy sources (conventional/renewable),

(b) cases related to the improvement of infrastructure (buildings/vehicles),

(c) cases related to environmental impact assessment during project authorisation.

- Please mention the important cases brought before the courts in your country and the judgments handed down.

While Romania does not have an extensive history of climate change litigation, there have been several disputes where issues related to climate change have arisen—either directly or indirectly. Many of these disputes emerge as part of broader environmental challenges, particularly during the approval process for energy and infrastructure projects. However, because climate litigation is still a developing field in Romania, the details and outcomes of these cases are often evolving and may not always be consolidated in public records.

(a) Causes related to energy sources (conventional / renewable):

Greenpeace vs Rovinari Power Plant – file no.16084/3/2019 – Bucharest Tribunal: The lawsuit contested the plant's lifetime operating permit, arguing that authorities failed to assess its environmental, climate, and health impacts. Greenpeace They wanted the operating permit of the power plant to be anulled, arguing that it did not comply with the European anti-pollution laws following the granting of the new permit that was granted in September 2018, allowing the Rovinari Power Plant to operate for an indefinite period.

(b) cases related to the improvement of infrastructure (buildings/vehicles)

No climate-related causes strictly related to green infrastructure (energy-efficient buildings, green transport) have been identified in Romanian courts.

(c) cases related to environmental impact assessment during project authorisation.

The Mihăileni Dam Project – Bankwatch Romania Association (the claimant**) vs. the Ministry of Environment (**defendant**) –** file no. 4597/2/2021 registered at the Bucharest Court of Appeal, having as its object ,,the annulment of the administrative act – approval no. 53/04.11.2020 – EMAIL". The court has decided to admit the action and annulled the Environmental Notice no. 53/04.11.2020 for Romania's Energy Strategy 2020–2030 with a perspective toward the year 2050.

II.B. Organisation of the judicial system: Does the system of dual jurisdiction (civil courts for private disputes, administrative courts for administrative disputes) apply in your country?

yes ☒

no □

➥ If so, are issues related to climate change dealt with:

-mainly by the administrative courts, when they examine the legality of the actions or omissions of the State and other public entities;

-mainly by the administrative courts, when they examine compensation claims against the State and other public entities;

-mainly by the civil courts (in disputes aimed at protecting the applicant against actions by individuals)?

Yes, Romania has a system of dual jurisdiction, which includes both civil courts and administrative courts, each with distinct competencies.

Thus, the **Civil courts** are responsible for resolving disputes between individuals or legal entities, such as conflicts related to property rights, contracts, family law, and other aspects of private law whereas the **Administrative courts** are part of the specialized judicial system for resolving disputes between individuals (or entities) and public authorities. They handle challenges to administrative acts and regulations issued by public authorities, including issues related to the legality of administrative acts, environmental regulations, public procurement, and other administrative conflicts.

a) *mainly by the administrative courts, when they examine the legality of the actions or omissions of the State and other public entities:*

This represents the basic situation in which administrative courts deal with assessing the legality of actions or omissions of public authorities, including in the field of climate change. When public authorities adopt administrative acts that affect the environment or climate change, they can be challenged in administrative courts. Law no. 554/2004 regarding administrative litigation regulates the procedures for challenging administrative acts, including those related to the environment. For example, an administrative act authorizing the construction of a project that could have a negative impact on the environment can be challenged in administrative courts.

b) *mainly by the administrative courts, when they examine compensation claims against the State and other public entities.*

If state liability is invoked for the effects caused by administrative actions or omissions with an impact on the environment and climate, claims for damage compensation can be made together with the request for the annulment of the act, also before the administrative courts.

Article 18 (3) of Law no. 554/2004 regarding administrative litigation states that „In the case of resolving the claim, the court will also decide on the compensation for material and moral damages caused, if the claimant has requested this."

c) *mainly by the civil courts (in disputes aimed at protecting the applicant against actions by individuals)?*

Disputes involving individuals or private companies fall under the jurisdiction of civil courts, especially when civil liability for damages caused to the environment or health due to activities impacting the climate is invoked. Tort liability for one's own actions is regulated in the Civil Code at Article 1357 and the following articles.

II.B.1. In your country, does the legislation provide for a specific remedy for cases relating to the climate crisis? If so:

➥ Which courts have jurisdiction to hear such cases?

In Romania, there is no specific legislation exclusively dedicated to climate crisis-related disputes. However, Romanian legislation allows for legal actions related to climate change through the general framework regarding environmental protection, human rights, and administrative litigation. However, Law no. 554/2004 regarding administrative litigation – allows citizens and organizations to challenge acts/omissions of public authorities that affect the environment. Government Emergency Ordinance No. 195/2005 on environmental protection – provides the right of every person to a healthy environment and the obligation of authorities to prevent pollution and the effects of climate change.

The Constitution of Romania, Article 35 guarantees the right to a healthy environment.

Regarding the aspect of which courts have jurisdiction to hear such cases, we mention that both administrative courts and civil courts have this jurisdiction but it depends of the situation:

a)The administrative courts are represented by the the Court – (first instance), the Court of Appeal (appeal), and the The High Court of Cassation and Justice – in appeal on points of law (recourse). Their jurisdiction arises in cases when :

• Administrative acts are challenged (e.g., construction permits in natural areas, urban planning plans with environmental impact);
• Public authorities are requested to be compelled to adopt climate-related measures (e.g., emission reduction plans, forest protection, etc.);
• Moral or material damages are sought for harm caused by the inaction of authorities in a climate context.

b) The civil courts: when the dispute occurs between private individuals/legal entities, the object of the civil courts can refer to the resolution of actions for tort liability for environmental damages or the ordering of damage repair, including through compensation.

The civil courts are The Court of First Instance or the Tribunal – depending on the value and nature of the case.

➥ What is the composition of these courts?

Depending on the nature of the dispute (public vs. private), climate-related cases are resolved by two types of courts: administrative courts and civil courts.

A) The composition of Administrative courts is:

Tribunal-First instance-1 judge specialized in administrative litigation

Court of Appeal-Appeal2 judges specialized in administrative litigation

The High Court of Cassation and Justice (Administrative Litigation Section)- Appeal-3 or 5 supreme-ranking judges.

B) The composition of Civil courts is:

The Court of First Instance - First instance -1 judge of general jurisdiction.

Tribunal – Civil Section-First Instance/Appeal-1 judge (first instance), 2 judges (appeal)

➥ What are the main features of the relevant remedies?

II.B.2. If the answer to the previous question is no [: if your legal system does not provide for a special remedy]:

➥ Among the remedies generally provided for, which remedies deal mainly with disputes involving issues related to the climate crisis?

actions for annulment against acts or omissions of the State and other public entities ☒

full jurisdiction remedies for the recognition of a right ☒

actions for damages ☒
remedies for the protection of the applicant's personality ☐
procedures for requesting interim measures ☒

II.B.3. If your legal system does not provide for a special remedy, are disputes relating to the climate crisis examined:

↳ by specialised divisions of the courts and/or according to a special procedure yes ☐ no ☒

II.B.4. According to existing practice, what is the main legal remedy for disputes relating to climate change?

In Romania, the main remedy for disputes related to climate change is the administrative litigation action. This allows for the challenge of actions or omissions by public authorities that affect the environment or climate change. For example, citizens and organizations can ask administrative courts to annul administrative acts or to compel authorities to take measures in the field of climate change. Additionally, civil courts may be involved when compensation is sought for environmental damage or for harm caused by the inaction of authorities regarding environmental protection.

II.B.5. In your country, are there seminars or other organised training courses for judges, specifically aimed at issues related to climate change?

Currently, in Romania, there is no national program, formalized or periodic, for professional training for judges dedicated exclusively to climate change litigation.

II.C. In your legal system, does the judicial review of laws and regulations:

☒is exclusively an ultra vires review (review of legality)?

☐or can it also be the subject of a full jurisdiction control?

☐If so, under what conditions?

In the Romanian legal system, judicial control exercised over laws and regulations is limited to a control of legality (ultra vires), generally not allowing for a control of opportunity or full jurisdiction.

1. The control of the constitutionality of laws – an exclusive responsibility of the Constitutional Court.

The control of the constitutionality of laws is the exclusive responsibility of the Constitutional Court, according to Article 146 of the Constitution of Romania. Judicial courts do not have the competence to declare a law or regulation unconstitutional. They can only raise a constitutional exception and refer the matter to the Constitutional Court, which, following the procedure regulated by Law no. 47/1992 regarding the organization and functioning of the Constitutional Court has the role of deciding on the constitutionality of normative acts. Thus, this control is judicial and of legality, but it is exercised by a constitutional judicial authority distinct from the common courts.

2. The legality control of normative administrative acts

This control is exclusively of legality (ultra vires) and it is carried out by the administrative courts, based on Law no. 554/2004 regarding administrative litigation for normative acts issued by administrative authorities (e.g., government decisions, ministerial orders, local council resolutions).

In conclusion, in the Romanian legal system, judicial control over laws and regulations is limited to a legality control (ultra vires), in the sense of verifying the conformity of the act with higher-ranking norms and the general principles of law. A full jurisdictional control is not exercised, and courts cannot replace authorities in their decisions regarding public policy or legislative opportunity.

II.D. Access to justice and admissibility of appeals:

- Does your legislation provide for specific rules of procedure for disputes relating to climate change?

yes ☐
no ☒

If so:

- which special rules of procedure apply?

- Please indicate the reasons which, according to the legislator, justify the differentiation from the generally applicable rules of procedure.

In Romania, the legislation does not contain special procedural provisions that would apply distinctly to climate change-related disputes. There is no autonomous procedural category called "climate litigation" that benefits from derogatory or adapted procedural rules.

Thus, disputes in this area are treated either under the administrative litigation procedure, regulated by Law no. 554/2004 regarding administrative litigation – in the case of disputes against public authorities – or under the common civil procedure – in the case of disputes between private individuals or legal entities.

However, it can be mentioned that procedural deadlines, admissibility conditions, appeal paths, stamp duties, evidence, etc., are similar to those in any other administrative or civil dispute. Additionally, access to justice in climate-related cases follows the same principles of procedural legitimacy (interest, active procedural standing), without regulations explicitly recognizing the general interest in climate matters

- If the legislation does not provide for specific rules of procedure, please mention any special rules of procedure developed by case-law in your country?

n the Romanian legal system, there are no special procedural rules formalized through legislation that apply exclusively to climate change-related disputes. However, the jurisprudence of national courts has developed certain guidelines and interpretations that facilitate access to justice and the exercise of procedural rights in environmental protection matters, including in the broader context of the climate crisis.

These elements do not constitute autonomous rules in a technical sense, but they can be regarded as evolving jurisprudential principles, with potential for direct or indirect application in climate-related cases.

Although no specific procedural rules for climate change disputes have been codified, **case-law** has contributed to developing certain principles that help facilitate access to justice in environmental cases like:
a) Principles of Access to Justice in Environmental Matters: Courts in Romania have started applying **European and international principles** related to environmental justice, such as those found in the **Aarhus**

Convention regardinf Article 9(3), which provides the right to access justice concerning violations of environmental law).
b) Jurisprudence from the Court of Justice of the European Union (CJEU), such as the **Janecek's** case(C-226/08) or **Lesoochranárske zoskupenie's** case (C-240/09) has also influenced Romanian case law in determining access to justice for environmental and climate-related issues.

If special rules of procedure developed by case-law exist:

- what are the conditions of admissibility according to case-law rules (legal capacity, legitimate interest in bringing an application before the court, conditions of admissibility linked to the nature of the contested acts or omissions, time limit for lodging an appeal, etc.)
- Please indicate the reasons which, according to the case-law, justify the differentiation from the generally applicable rules of procedure.

II.D.1. More specifically, with regard to legitimate interest in bringing an application before the court:

- Does your legal system recognize the actio popularis (as a constitutional principle or rule, by legislation or case-law)?

In Romania, the legal system does not fully recognize the *actio popularis* in the way it is traditionally understood in some other jurisdictions. However, there are certain elements of the Romanian legal system that allow for public interest litigation, especially in cases related to environmental protection, where organizations or individuals can bring actions before the court even if they are not directly affected by the situation.

Thus, in Romanian law, the institution known in comparative doctrine as *actio popularis* — meaning the possibility for any person to bring a lawsuit exclusively to defend a public interest, without being directly affected — is not expressly regulated, neither at the constitutional level nor through civil or administrative procedural legislation.

Article 52 of the Constitution of Romania enshrines the right of a person harmed by a public authority to address the court to defend their legitimate rights or interests. This formulation imposes the condition of a concrete individual harm, thereby excluding, at least seemingly, an action brought exclusively on the basis of a diffuse public interest.

Additionally, Law No. 554/2004 regarding administrative litigation stipulates that the claimant must justify a personal or collective legitimate interest, which formally limits access to justice for those who only invoke a violation of a general interest (e.g., protection of the climate, biodiversity, forests, or air quality).

How is the legitimate interest in bringing an application before the court, as a condition for the admissibility of an appeal, defined:

☒in relation to certain groups or categories of the population [minors, the elderly or other vulnerable groups more exposed to the effects of climate change];

☒in relation to legal persons [public law legal entities, private law entities: associations, etc]?

In Romanian law, legitimate interest is an essential condition for bringing an action in court. According to Law No. 554/2004 regarding administrative litigation, the claimant must prove a personal or collective legitimate interest in order to challenge an administrative act. This principle is particularly applied in

environmental disputes, and Romanian courts have developed jurisprudence adapted to this context, including cases with climate relevance.

However, there is no specific regulation regarding **legitimate interest** based on the social category of the claimant or the legal nature of the person. Therefore, **court interpretations** are crucial in determining to what extent a legal action is admissible, especially in cases related to environmental protection and climate change.

a) *in relation to certain groups or categories of the population [minors, the elderly or other vulnerable groups more exposed to the effects of climate change]:*

In this case, there is no explicit regulation that automatically grants these categories a presumption of legitimate interest in ecological or climate matters.
The Constitution of Romania at Article 49 recognizes the right of children and young people to special protection, while Article 35 guarantees the right of all citizens to a healthy environment.

b) *in relation to legal persons [public law legal entities, private law entities: associations, etc]?*

This legitimate interes is regulated by several legal acts, as Emergency Ordinance No. 195/2005 on Environmental Protection, Law no. 554/2004 regarding Administrative Litigation – allows NGOs to act in defense of a legitimate interest of the community and the • The Aarhus Convention (ratified by Law no. 86/2000) – guarantees access to justice for environmental organizations even without direct harm.

- Concerning the allegations made by the parties to substantiate their interest in bringing proceedings in the disputes in question, what degree of specification is required?

- What standards of proof are required for the allegations made?

II.D.2. Nature of the contested acts or omissions:

- What are the categories of cases brought before the courts in disputes concerning climate change?

In Romania, disputes related to climate change can be subsumed under existing legal categories, primarily within the framework of administrative litigation and, subsidiarily, civil law. These cases generally involve challenging administrative acts or the inaction of public authorities that affect or ignore legal obligations regarding environmental protection in the broad sense.

Below are some of the cases brought before the courts divided into the following categories>

1. **Challenges against administrative acts of a normative or individual nature**, such as zonal or general urban planning (PUZ, PUG), construction permits in green and environmental permits and operating authorizations for industrial projects with an impact on CO_2 emissions.

It is worth mentioning fioe no. 25248/3/2018 enrolled at Bucharest Tribunal o first instance which refers to the annulment of the administrative act – environmental permit no. 03/15.12.2017, where „Save

BucharestAssociation", „Civic Movement Association" and the claimants vs. Auchan Romania, One Mircea Eliade Properties S.R.L. and Primaverii Gardens S.R.L.

2. **Actions to compel public authorities to fulfill legal obligations regarding climate change**, such as implementation of national strategies on climate and energy;
3. **Civil liability actions for damages related to pollution and climate impact**, filed against private companies (e.g., extractive industries, transportation).

➥ What are the admissibility requirements for taking legal action against omissions in disputes concerning climate **change**?

In Romania, the legal framework for addressing omissions by public authorities in climate change-related matters is primarily regulated by **Law No. 554/2004 on administrative litigation**, alongside European and international legal instruments, such as the **Aarhus Convention** and **EU climate regulations**. Legal actions in this context must meet specific admissibility criteria to be considered by the courts. These criteria ensure that the disputes are substantive and that the legal system operates within defined procedural boundaries.

1. Existence of a concrete, unfulfilled legal obligation

The first requirement for initiating legal action is the existence of a clear and binding legal obligation that has not been fulfilled by the public authority. This obligation may derive from national legislation, EU law, or international agreements. In the context of climate change, it is common for such obligations to relate to the implementation of climate action plans, emission reduction strategies, or compliance with environmental protection regulations.

For example, the failure of the Romanian Government to adopt or update a national strategy for combating climate change in line with the commitments outlined in **EU Regulation 2018/842** (Effort Sharing Regulation) could provide grounds for legal action. The claimant must demonstrate that the relevant authority had a specific duty to act—whether by implementing climate-related policies, updating environmental standards, or achieving predefined climate targets—and that the authority's failure to fulfill this obligation has had a detrimental impact on the environment or climate policy goals.

2. Legitimate Interest of the Claimant

According to Romanian administrative law, the claimant must have a legitimate interest in the matter. This means that the claimant must be directly affected by the omission or action of the public authority. In environmental and climate-related disputes, **legitimate interest** is often recognized for individuals, non-governmental organizations (NGOs), and other stakeholders whose rights or interests in environmental protection are compromised by the authority's failure to act.

For instance, environmental organizations advocating for the protection of natural resources (such as air, water, and biodiversity) or against climate change may invoke their legitimate interest to challenge government inaction or omissions that negatively affect public resources or contribute to climate degradation. The courts are likely to grant standing to these entities, recognizing their role in promoting environmental justice and public interest.

3. Exhaustion of administrative remedies

Before initiating judicial action, the claimant must generally exhaust all available administrative remedies. This requirement ensures that the administrative authorities have had the opportunity to resolve the issue before the courts intervene. In the case of climate-related disputes, this may involve appealing administrative

decisions or omissions to higher authorities or specialized bodies responsible for environmental protection, climate governance, or public health.

The exhaustion rule is designed to foster administrative efficiency and to avoid unnecessary judicial intervention. However, if the public authority fails to respond or resolve the issue within the legally prescribed time frame, the claimant may then approach the courts.

4. Filing within statutory time limits

Legal actions against administrative omissions in climate-related matters must be filed within statutory time limits. According to Romanian administrative law, the general period for challenging an administrative act or omission is **30 days** from the date of notification or publication of the contested act or omission.

This time limit ensures that claims are brought promptly and that the legal system is not burdened with outdated or stale claims. Climate-related disputes often involve urgent matters, such as the implementation of climate mitigation policies, making it crucial that actions are taken swiftly to address the omissions that have the potential to cause long-term harm to the environment.

5. Compliance with procedural rules

All legal actions must comply with the procedural requirements established by **Law no. 554/2004** regarding administrative litigation and other relevant statutes. This includes submitting proper documentation, evidence, and legal arguments that demonstrate the existence of an unfulfilled obligation, the claimant's legitimate interest, and the harm caused by the omission. The claimant must also meet specific procedural requirements set out in the relevant administrative dispute laws, ensuring that the dispute is framed properly for judicial review.

- Have the courts in your country been asked to examine questions of cross-border interest [parties to the dispute resident or headquartered in another country, acts or omissions with environmental impacts in another country]?
- If so, how were these disputes handled [limitation of liability only for actions or omissions within the borders of the State or recognition of liability also for actions outside the borders]?

II.E. Nature, extent and intensity of judicial review:

- In matters of climate change, how does the judge consider the delimitation of jurisdictional control in relation to:

  -the political choices made by the legislator or the administration?

  -the balancing of contradictory interests?

  -assessments of an essentially technical nature?

1. In relation to the political choices made by the legislator or the administration:

In the context of climate change-related disputes, courts in Romania cannot intervene in the political or administrative decisions made by the legislator or the administration, as the principle of the separation of powers regulated by article 1 (4) of the Constitution of Romania requires each branch of state power (legislative, executive, and judicial) to exercise its authority independently, without one replacing or controlling the activity of the others. Therefore, courts cannot make decisions in place of the legislator or the

executive regarding public policy choices, such as regulations related to climate change, even if these may affect the environment.

2. **In relation of contradictory interests?**

In climate change matters, Romanian judges exercise judicial review primarily by ensuring that administrative decisions adhere to legal standards, particularly regarding procedural fairness and the principles of proportionality and transparency. When balancing contradictory interests—such as environmental protection versus economic development—the judge does not substitute their own policy judgment but rather verifies that the authority has whether conducted a thorough and reasoned assessment (including impact assessments and public consultations) to justify how the interests are weighed, or respected the legal framework, both national and EU law, that mandates proper balancing of these interests.

3. **In relation to assesments of an essentially technical nature?**

In matters of climate change, judges in Romania generally exhibit a degree of deference toward assessments of an essentially technical nature. They focus on verifying that technical assessments—such as impact studies and other expert analyses—have been carried out in accordance with the appropriate procedural and legal standards, including ensuring transparency, public consultation, and compliance with the national and European legislative framework.

II.E.1. On the balancing of conflicting interests, please give examples from the case-law in your country when the conflict concerns:

-environmental protection, and in particular protection against the effects of climate change, on the one hand;

-the protection of private assets and interests, on the other hand.

Regarding the **environmental protection**, it is worth mentioning the „Tătar vs. România" request 67021/02 brought against Romania by two nationals of that state, Mr. Vasile Gheorghe Tătar and Mr. Paul Tătar ("the applicants"), who lodged the application with the Court on 17 July 2000 under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

- Can the judge limit the temporal effects of an annulment decision [example: limitation of the retroactive effects of an annulment decision] based on the balancing of conflicting interests?
- If so, under what conditions?

II.E.2. Technical and scientific judgments:

- Please give examples from case-law concerning the criteria and methods used by judges to rule on disputes involving technical and scientific judgments.

In Romanian case law, resolving disputes that involve complex technical and scientific issues requires judges to adopt a balanced approach that combines legal principles with a thorough understanding of specialized matters. To ensure a fair and well-informed judgment, courts employ various criteria and methods, including appointment of judicial experts, assessment of scientific evidence or application of the precautionary

principle, taking preventive measures even in the absence of complete scientific evidence when there is a risk of serious or irreversible harm.

A relevant example is the case *Tătar v. Romania*, decided by the European Court of Human Rights in 2009. In this case, the applicants argued that the Romanian authorities had failed to properly assess and manage the risks associated with the use of cyanide in a mining operation, endangering health and the environment. The Court emphasized the state's obligation to conduct proper risk assessments and to inform the public accordingly, highlighting the importance of applying the precautionary principle in such situations.

Additionally, in consumer protection cases, courts rigorously analyze the technical information provided by traders regarding the products or services offered, ensuring that the information is clear, accurate, and not misleading.

Thus, in resolving disputes with technical and scientific elements, Romanian judges combine legal expertise with consultation of specialists in relevant fields, while also applying principles such as precaution, in order to ensure fair and well-founded justice.

- Does the judge have the specific tools required to exercise the above mentioned control effectively and efficiently [assistance from specialised scientists, appointment of experts, amicus curiae]?

Yes, under Romanian law, the judge has specific procedural tools at their disposal that allow them to effectively address and assess the technical or scientific aspects involved in a dispute, including cases related to climate change, the environment, or public health.

As mentioned above,the judges can appoint judicial experts for technical and scientific expertise, aspect regulated by articles 330-331 of Code of Civil Procedure

Though rare, judges can request scientific opinions from competent authorities (e.g., the Romanian Academy, the National Environmental Protection Agency – ANPM, the National Institute of Hydrology and Water Management – INHGA, research institutes).

Regarding the intervention of amicus curiae, this institution is not expressly regulated by the Code of Civil Procedure but it is worth mentioning that The Constitutional Court of Romania, through its own case-law, has recognized and established the legal institution of *amicus curiae* by Decision No. 447/2013.

Nonetheless, the judge has an active role regulated by article 22 of ode of Civil Procedure regarding the establishment of the truth in the respective case and can request any evidence whether it is considered or not,.

II.E.3. In the judicial review, how is the diversity and complexity of the factors contributing to the phenomenon of climate change evaluated?

In Romania, the courts do not have an extensive and consolidated case law regarding climate change as an integrated phenomenon, but in environmental disputes and administrative litigation with ecological relevance, judges are beginning to recognize and consider the multidimensional complexity of the causes of climate change.

The legal system in Romania recognizes the importance of environmental protection principles and applies international regulations targeting climate change, such as international agreements on carbon emission reduction.
Regarding the application of these principles, judges look at:

- Scientific expertise to understand the impact of human activities on the environment.
- International and national regulations to assess whether the legislation has been complied with.
- Principles such as the "precautionary principle," which are important in environmental regulations.

II.F. Civil liability of the State

- With regard to compensation claims, has your country's case-law considered disputes involving the civil liability of the State for damage attributed by applicants to climate change? yes ☐ no ☒
- If so: to address the relevant issues, does the judge simply apply the standard provisions and methods, for example with regard to proof of damage, causal links or methods of compensation for damage,
- or does he apply specific rules?

In Romania, there is no extensive case law specifically addressing the civil liability of the State for damages attributed to climate change. While Romanian courts have dealt with environmental liability issues in general, the application of civil liability concerning state responsibility for climate change-related damage has not been widely developed or recognized in case law. However, environmental litigation in Romania does involve public authorities' responsibilities regarding pollution or other environmental harms, and these could potentially be linked to climate-related issues if they involve breaches of national or international environmental obligations.
Subsidarily, at article 52 (1) of the Constitution of Romania states that „*The person harmed in their right or legitimate interest by a public authority, through an administrative act or by failing to resolve a request within the legal deadline, is entitled to obtain the recognition of the claimed right or legitimate interest, the annulment of the act, and the compensation for the damage.*".

- What is the content of the specific rules and their legal basis?

There is currently no court ruling in Romania (neither from national courts nor from the High Court of Cassation and Justice) that has explicitly ruled on the state's liability for damages caused by climate change or that has established a legally analyzed causal link between a climatic inaction and a specific harm suffered by the plaintiffs.

However, if in case of Civil liability of the State, we appreciate that the judge would apply articles 1349 and the following of the Civil Code. Also, in such a situation, the courts would apply the general regulations of civil law and administrative litigation, without any derogatory provisions or adaptations specific to climate-related disputes.

- With regard to ecological damage, how are questions of causality dealt with?

In Romania, courts generally address questions of causality in cases of environmental damage by examining the direct link between the harmful act (or omission) and the ecological harm caused. These are typically addressed within the context of civil law, more specifically within the regulations regarding civil liability.

When establishing causality in environmental damage cases, the courts take into account, among other things, the causal link between a party's action or omission and the resulting environmental damage, considering various aspects, including technical-scientific assessments.

The types of causality dealt with are direct and Proven Causality (rarely applicable in ecological cases) which applies when the damage is immediate and evident (e.g., discharge of toxic substances into an identifiable and documented river) and the probable Causality (indirect or cumulative) which is frequently accepted in ecological cases, where the damage is the result of the contribution of multiple factors (industrial, urban, natural)and claimants cannot prove an exclusive causal relationship, but only a significant contribution to the damage.

Regarding the instruments used by the judges for the analisis of the case, they rely on technical and environmental expertise – essential for establishing the connection between the contested activity and the

alleged harm, environmental Impact Assessments (EIA) – critically evaluated in administrative litigation, international scientific documents – sometimes invoked by NGOs or courts (e.g., IPCC reports, EU standards).

➥ Is monetary compensation recognised regarding compensation for non-material damage caused by ecological damage? yes ☒ no ☐

In Romania, monetary compensation for non-material damage caused by ecological harm is recognized under the Civil Code at article 1391- **Compensation for non-material damage**, specifically for moral damages (damages to non-patrimonial rights). However, in practice, the application of this concept in ecological damage cases is still developing and can be complex.

➥ Does the 'polluter pays' principle apply to disputes concerning climate change?

Yes, in Romania, the "polluter pays" principle is recognized and applicable, including in the context of climate change, and it is regulated under Article 3, letter e) of Emergency Ordinance no. 195/2005 on Environmental Protection.

II.G. Provisional judicial protection [interim measures]

➥ How are requests for provisional judicial protection in climate change cases handled? What parameters are taken into account by the courts?

Provisional protection granted by the courts is an essential tool in environmental and climate cases, where the irreversible nature of the claimed damages necessitates prompt judicial intervention. In Romania, the legal regime applicable to interim measures falls under common law, being regulated by the Code of Civil Procedure and, more specifically, by Law no. 554/2004 regarding administrative litigation. Although there is no specific regulatory framework for climate litigation, the general principles of administrative litigation are capable of addressing the particularities of these cases.

The **parameters** taken into account by courts refer mostly at the causal link and evidence- whether there is a direct connection between the party's action or omission and the environmental damage, the urgency and risk of irreparable harm, the technical-scientific evidence referring to the expert assessments, technical reports, and environmental studies that clarify the nature and extent of the damage and the compliance with legal norms.

➥ Please mention the measures that the judge may order.

In the context of environmental and climate litigation, the provisional measures that the judge may order play a central role in preventing irreversible harm, as the damage inflicted on the environment is, by its very nature, difficult, if not impossible, to repair afterward. Even though Romanian legislation does not specifically regulate interim mechanisms in the field of climate, the existing legal instruments already allow for effective intervention, tailored to these types of cases.

We consider that the most frequently used form of provisional protection in climate litigation is the suspension of the execution of the administrative act, as regulated by Law No. 554/2004 regarding administrative litigation. This applies when the claimant invokes the apparent illegality of the act and a serious, imminent, and difficult-to-remedy risk. For example, in a situation where a construction permit is issued for a proj/ect in a protected natural area or an urban green space, the judge may order the suspension of the act to prevent deforestation or the destruction of the ecosystem before the case is finally resolved.

In addition to suspension, the courts can resort to the mechanisms provided by the Civil Procedure Code, especially the interim injunction, as a means to temporarily halt certain activities or works. In this form, measures can be ordered, such as halting infrastructure works or polluting industrial activities until the

legality of the administrative or environmental procedures is clarified. These interventions are particularly important in strategic litigation, where the claimant invokes the authorities' omission to consider climate obligations or lack of transparency in the decision-making process.

- How does the judge consider the ecological damage alleged by the parties?

The assessment of the ecological damage invoked in a dispute is one of the most sensitive and complex tasks that falls to the judge in environmental cases and, by extension, in disputes concerning climate change, being quite difficult to quantify.

In Romanian law, we find an indirect reference to the notion of "ecological damage" in Government Emergency Ordinance No. 195/2005 on environmental protection, which states in Article 2, paragraph 52 that "damage is the quantifiable effect in cost of harm to human health, goods, or the environment, caused by pollutants, harmful activities, or disasters."

Before the court, the parties may invoke ecological damage either as individual damage (affecting health, private life, property) or as collective damage (destruction of an ecosystem, loss of biodiversity, degradation of air or water quality).

Nonetheless, the courts may apply the *precautionary principle* regulated by Article 191 of the Treaty on the Functioning of the European Union, the precautionary principle is intended to ensure a high level of environmental protection by taking preventive decisions in the case of risks. This principle can be invoked when a phenomenon, product, or process may have dangerous effects identified through scientific and objective evaluation, and this evaluation does not allow for sufficient certainty in determining the risk.

The application of the precautionary principle thus falls within the general framework of risk analysis (which includes, besides risk assessment, risk management and communication), more specifically, within the context of risk management, corresponding to the decision-making phase.

The Commission emphasizes that the precautionary principle can only be invoked in the event of a potential risk and cannot justify, under any circumstances, an arbitrary decision.

II.H. Regarding the enforcement of a court decision:

- Is there a procedure for checking whether the legislator and/or the administration have adopted the necessary measures to comply with a court decision?

- In case-law, what are the most striking examples of the methods used to monitor the enforcement of judgments in disputes relating to acts or omissions linked to climate change?

III.A. In your country:

- Are there any court decisions that have explicitly recognised the obligation of the State [and/or other public entities] to take positive measures to address climate change?

In Romania, until this moment, there is no definitive court ruling that has explicitly, formally, and reasoned recognized the positive obligation of the state or a public authority to adopt measures to combat climate change.

- Are there any court decisions recognising a right to ensure compliance with this obligation?

Currently, in Romania, there are no final court decisions that explicitly and justifiably recognize the existence of a subjective right for natural persons, legal entities, or civil society to compel the state to fulfill its positive obligation to combat climate change.

➥ If a relevant case-law rule has been formulated, on what legal basis?

-

III.B. If the courts in your country have already considered issues relating to climate change:

➥ Do the relevant decisions refer to existing practice in another legal system, for example to the case-law of national judges in other countries or to the case-law of judges in supranational bodies:

-dialogue between the national courts of different countries

-dialogue between the courts of your country and the European Union judge

-dialogue between the courts in your country and the ECtHR

-dialogue between the courts in your country and the bodies of other international organisations [for example the UN]?

III.C. In your country's case-law, is the obligation to act against climate change considered mainly:

☐as an obligation based on national law

☒or as an obligation under international law?

In Romania, the obligation to act against climate change is primarily considered as an obligation under international law, with significant influence from EU law and international agreements such as the Paris Agreement and EU climate regulations. However, this international obligation is integrated into national law through various legislative acts, such as the Environmental Protection Law and National Strategy for Climate Change, which implement Romania's international commitments.

➥ Within the case-law, can we find decisions aimed at harmonising the rules of international law, European law and national law?

In Romanian law, the courts strive to harmonize national legislation with international and European law, especially in areas such as environmental protection, climate change, and human rights. This includes applying European and international norms and jurisprudence to ensure coherence and compliance with the international obligations assumed by Romania.
It is important to note that in the case of a conflict between national legislation and European or international norms, Romanian courts will apply European or international law, in accordance with the principles of the supremacy of international treaties (especially those of the European Union) and the Constitution of Romania, which provides for the integration of international norms into national legislation.

➥ In your country, have any court decisions considered the Paris Agreement to be a legally binding instrument?

Although, In Romania, there has not been a significant or widely recognized court decision explicitly stating that the **Paris Agreement** is a legally binding instrument in the national legal system, as a signatory to the **Paris Agreement**, Romania has an international legal obligation to comply with its provisions, particularly regarding climate action and the reduction of greenhouse gas emissions.

III.D. Does the approach of the courts in your country align with the approach of the ECtHR in *Verein Klimaseniorinnen Schweiz v. Switzerland*? [please mention any differences]

In Romania, the approach of the courts has not yet been explicitly defined in relation to the decision Verein Klimaseniorinnen Schweiz v. Switzerland of the European Court of Human Rights (ECHR). This decision was significant, as the ECHR established that the right to a healthy environment can be protected within the framework of the European Convention on Human Rights (ECHR), and that the state has an obligation to take measures to protect this right against global threats such as climate change.

In brief, in the Verein Klimaseniorinnen Schweiz v. Switzerland case, the ECHR found that the Swiss authorities had failed to meet their obligations in environmental protection and climate change, which could lead to a violation of the fundamental rights of the affected individuals.

III.E. Have the courts in your country referred questions to the CJEU or the ECtHR for a preliminary ruling on matters directly or indirectly related to climate change?

Within the national legal order, the courts in Romania play a crucial role in the application and interpretation of European and international law, particularly in areas such as environmental protection, public health, and fundamental rights. However, to date, there has been no formal referral to the Court of Justice of the European Union (CJEU) through the preliminary ruling procedure, nor has any Romanian case been accepted for examination by the European Court of Human Rights (ECHR) that directly or indirectly concerns issues related to climate change.

Part II: Overtourism

I. The regulatory framework [the rules of law]

I.A. Have the negative effects of the excessive development of tourist activity been adressed by the legislator and the courts of your country, following concerns discussed in the public debate?

yes ☐
no ☒

➥ If so, what are the problems envisaged in the legislation and case-law on this subject?

saturation capacity of urban and non-urban space ☒

deterioration of living conditions in urban areas (increase in housing prices, lack of properties to rent especially for younger generations and/or families with low and medium incomes - particularly in city centres, on islands and in other tourist destinations, deterioration of traffic conditions, insufficient infrastructure, increase in energy consumption, etc.) ☐

overexploitation of natural resources (increased density due to the construction of hotels and other buildings for tourism in extra-urban areas, intensification of land use - particularly in coastal areas and the islands, insufficient infrastructure in small villages, effects on protected landscapes and/or on historical sites and/or archaeological sites and monuments) □

other problems □

I.B. Has your country taken an initiative/participated in a collective initiative for the establishment, within the EU, of a regulatory framework to address the adverse effects of 'hypertourism'?

If so, what is the content of the proposed measures?

Regarding Romania, it should be noted that the state has neither initiated nor formally co-initiated any collective proposal for establishing such a European regulatory framework up to this point. Furthermore, there are no official positions assumed by the Government of Romania or the Ministry of Economy, Entrepreneurship, and Tourism that reflect active participation in any interstate efforts in this regard.

I.C. Are there any relevant principles and guidelines at international level?

- If so, have they been recorded:

-in binding texts?

-in non-binding texts?

- Could non-binding texts serve as a basis for regulations [please give examples]?

I.D. In your country, are there any constitutional principles or provisions that can serve as a basis for dealing with issues related to overtourism?

In Romania, the constitutional principle that can serve as a basis for dealing with issues related to overtourism can be the right to a healthy environment as enshrined in Article 35 of the Constitution

I.E.1. Has the national legislator established a regulatory framework specifically designed to address the problems resulting from excessive tourist activity?

yes ☐
no ☒

- If so, please summarise the legislation adopted and the main content of the relevant regulations (for example preventive and/or repressive measures, other provisions)

I.E.2. Does your country have a special action plan to address the problems resulting from excessive tourist activity?

yes ☐
no ☒

- If so, does this plan establish guidelines for the policies to be followed or does it also contain binding rules?

No, currently Romania does not have a national action plan specifically dedicated to the issue of excessive tourism, in the sense of an officially adopted strategic document that would include integrated measures, clear objectives, and intervention tools for preventing, controlling, or mitigating the effects of overtourism. Subsidiarilly, there is in force the The Government Decision no. 877/2018 regarding the adoption of The National Strategy for Sustainable Development of Romania 2030.

- What is the level of planning [national, regional, etc.] ?

Romania does not have a national action plan specifically dedicated to combating overtourism. However, there is no integrated, mandatory strategic planning explicitly dedicated to managing or preventing excessive tourism. This absence affects the coherence and efficiency of public policies in the field.

Subsidiarilly, Romania at a national level, Romania has developed The National Strategy for Sustainable Development of Romania 2030.

Moreover, certain measures are adopted at the regional or local level by some authorities in development or urban planning plans, especially in tourist towns such as Brașov, Constanța, etc.

I.E.3. In your country, are there any regulations concerning:

-the allocation of responsibilities for the management of 'hypertourism'? □

-other provisions concerning the organisation of the competent authorities? □

Within the Romanian legal system, there are currently no specific regulations that directly and systematically address the institutional organization or allocation of responsibilities for managing the phenomenon of overtourism.

➥ What are the responsibilities assigned to the various bodies (advisory, decision-making)?

Although Romania has not established a regulatory or strategic framework explicitly dedicated to the phenomenon of overtourism, there are a number of public authorities with responsibilities in related fields – tourism, environment, urban planning, culture, regional development – that exercise, in a fragmented manner, relevant decision-making or consultative functions.

For instance, **The Ministry of Economy, Digitalization, Entrepreneurship, and Tourism** (MEDAT) whose organization and functioning are regulated by Government Decision no. 189/2015 regarding the organization and functioning of the Ministry of Economy, Digitalization, Entrepreneurship, and Tourism, states in Article 4, paragraph G, letter l) that „*In carrying out its functions, the Ministry primarily exercises the following specific duties: in the field of tourism: it develops strategies and action plans related to the field of tourism.*", at letter u) that „*It establishes, together with the central and local public authorities responsible in the field, measures for the protection of areas with historical, architectural, or landscape value, measures for their tourist exploitation, as well as measures for integrating them into the modernization actions of localities and surrounding areas.*", letter aa) that „*It develops the tourism promotion and development policy based on the annual marketing and tourism promotion program, as well as the tourism product development program.*"

The Ministry of Environment, Waters and Forests (MMAP) states at article 1 (2) that „*Ministerul Mediului, Apelor și Pădurilor își desfășoară activitatea în domeniile: planificare strategică, dezvoltare durabilă, economie verde, infrastructură de mediu, reziliență ecologică, meteorologie, schimbări climatice, protejarea, conservarea și ameliorarea capitalului natural, arii naturale protejate, biodiversitate, biosecuritate*" and at paragraph 3 that „*Ministerul Mediului, Apelor și Pădurilor realizează politica la nivel național în domeniile protecției mediului înconjurător, economiei verzi, biodiversității, ariilor naturale protejate, schimbărilor climatice*…".

➥ Are there any provisions for public participation in the adoption of action plans or laws? yes ☒ no ☐

II. The application of the regulatory framework by the judge

II.A. Have issues related to 'hypertourism' been the subject of litigation in your country?

yes ☐
no ☐

➥ If so, what points were raised in the arguments of the parties to the dispute? yes ☐ no ☐

➥ Please summarise the landmark cases heard by the courts in your country and the decisions handed down.

II.B. According to legal practice, what is currently the main channel through which the relevant disputes are brought before the courts?

-litigations concerning control of the legality of administrative acts or omissions? ☒

-litigations concerning compensation for damage caused by acts or omissions of the administration? ☐

-other categories of litigations? ☐

In Romania, according to legal practice, the primary channel through which relevant disputes are brought before the courts is represented by litigations concerning control of the legality of administrative acts or omissions.This is primarily conducted through actions for annulment or judicial review proceedings, where individuals or entities challenge the legality of administrative acts or omissions by public authorities. These cases are typically adjudicated by specialized administrative courts or chambers, ensuring that administrative actions comply with legal standards. While there are also litigations concerning compensation for damages caused by administrative acts or omissions, the main focus remains on the control of legality. This approach underscores the emphasis on upholding the rule of law and ensuring that administrative decisions adhere to legal requirements.

II.C. Please cite any court decisions:

-that have expressly recognised the obligation of the State and/or other public entities to take positive measures in order to address the phenomenon of 'hypertourism'? ☐

-that have recognised a right of individuals to ensure compliance with this obligation? ☐

➥ Have case-law rules been formulated in this regard? If so, on what legal basis?

II.D. Do issues linked to overtourism:

-mainly concern the administrative courts, when they monitor the actions of the State and public entities,

or do they mainly concern the civil courts called upon to judge appeals against the actions of individuals?

administrative courts ☒
civil courts ☐
both ☐

II.E. Can examples be found in your country's legislation and case-law that highlight the relationship between climate change and overtourism?

yes ☐
no ☒

➥ If so, please present the main content of the relevant legislation or court decisions.

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